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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/771,265

02/03/2004

Tommie L. Rogers

ROTCO

2326

7590 07/11/2008  
Law Office of Jesse D. Lambert L.L.C  
406 Audubon Blvd.  
Lafayette, LA 70503

EXAMINER

MCDONALD, SHANTESE L

ART UNIT

PAPER NUMBER

3723

MAIL DATE

DELIVERY MODE

07/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/771,265	<b>Applicant(s)</b> ROGERS, TOMMIE L.	
	<b>Examiner</b> Shantese L. McDonald	<b>Art Unit</b> 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 22 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1 and 5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 5 is/are allowed.
- 6) ☐ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicants admitted prior art in view of Ahlstone.

The Applicant's admitted prior art teaches a power tong/backup assembly, wherein the backup unit comprising a hook shaped member, 60, a tong die comprising a base portion and a gripping portion, comprising a toothed surface extending substantially over the entire surface, and whereby the tubular is forced into the hook shaped member by the backup jaw and tong die thereby rotationally fixing the tubular with respect to the backup unit, and wherein only one of the tong dies contacts the tubular at a given time. The prior art teaches all the limitations of the claims except for the gripping portion in profile view comprising a segment of an arc of a circle, with the center of the circle being displaced from the centerline in a direction away from the point of rotation of the backup jaw, and the non-symmetric shape comprising a section of a parabola. Ahlstone teaches the gripping portion in profile view comprising a segment of an arc of a circle, with the center of the circle being displaced from the centerline in a direction away from the point of rotation of the backup jaw, and the non-symmetric shape comprising a section of a parabola, (fig. 5). It would have been obvious to one

having ordinary skill in the art at the time the invention was made to provide the tong assembly of the admitted prior art with a tong die, as taught by Ahlstone, in order to enhance the gripping capabilities, and since both inventions teach a tong assembly with toothed tong dies for gripping tubulars.

### ***Response to Arguments***

Applicant's arguments filed 7/23/07 have been fully considered but they are not persuasive.

The Applicant argues that there is no motivation to combine the admitted prior art with Ahlstone. The Examiner disagrees. The admitted prior art teaches all the limitations of the claims, except for the non-symmetrical aspect of the tong die. The Ahlstone reference teaches a tong die with the given parameters of the present invention. Tong assemblies with tong dies having various shaped gripping profiles and structures are well known in the art. The Applicant further argues that the insert of Ahlstone is only for gripping smaller diameter tubes. The Examiner notes that the limitation of the die being able to effectively grip a range of tubular outer diameters both larger and smaller than a range which may be effectively gripped by a symmetrical gripping surface is open ended. This can be any size tubular. There are "symmetrical gripping surfaces in the art that can grip any size tubular, depending on the design. Ahlstone teaches that his tubular can grip smaller diameter tubes, but his smaller tubes can be both smaller and bigger than what can be gripped by a symmetrical die, since the actual size of the tube being gripped by the symmetrical die has not been defined,

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and can virtually be any size tube. The Applicant also argues that the insert, 70', of Ahlstone is a symmetrical jaw insert. The Examiner disagrees. The insert of Ahlstone clearly depicts that it is non-symmetric about a center line through and normal To the base portion, (fig. 5). The Applicant also argues that there is no suggestion in the Ahlstone reference supporting the combination with a "hook type" back up. Both Ahlstone and the admitted prior art teach a power tong with back up assemblies, and therefore one can combine the references.

***Allowable Subject Matter***

Claim 5 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shantese L. McDonald whose telephone number is (571) 272-4486. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.L.M.  
July 6, 2008

/Joseph J. Hail, III/

Supervisory Patent Examiner, Art Unit 3723